

REMARKS

Receipt of the Office Action of June 5, 2009 is gratefully acknowledged.

This application has been re-examined with claims 12 - 22, and claims 12 - 22 have been objected to and rejected as follows: claim 12 is objected because previously the "control unit" was referred to as the "remote control unit;" claims 12 - 15 and 17 - 22 are rejected under 35 USC 103(a) over Gillen in view of Crater et al and Galasso; and claim 16 is rejected under 35 USC 103(a) over Gillen and Crater in view of Galasso and Moyer. The Crater et al patent is newly cited in this RCE application.

Regarding the objection, claim 12 has been amended to correct several typographical errors and also to change "control unit" to "remote control unit." The noted rejections, however, are respectfully traversed.

Gillen refers to a programmable field measuring instrument which prevents unauthorized use of not authorized functionalities. The programmable field measuring instrument encompasses an "internal" control unit which serves for executing a control program. Connected to this "internal" control unit is a non-volatile software program memory. Furthermore there is an interface as a connector terminal which is connected in a manner to be released to a software protection device. The protecting device, a hardware component, comprises a connector mating element with an integrated electronic component which allows authorization examination by the control unit. The integrated electronic component has a micro-controller and should prevent an unauthorized access to the non-volatile software program memory.

Gillen **does not** teach a field device connected over a data bus with a remote control unit with the field device comprising at least one function block with defined communication interfaces. The examiner asserts that the control program could be considered as a function block. This is really far-fetched! Gillen is neither talking about a data bus nor a function block nor that this function block is defining communication interfaces. As the function block appears in nearly all features of claim 12, the examiner's statements in view of the further features of claim 12 are simply not true and consequently irrelevant insofar as patentability is concerned.

Gillen also **does not** teach that the set of parameters of the function block and the field device determine the functionality of the field device and allow the execution of complicated control procedures while interacting with other field devices connected to the data bus. In fact, Gillen does not disclose function blocks integrated in field devices which interact with each other.

The examiner suggests in his commentary on page 3 of the Office Action, that "...the set parameters of the function block (i.e., Gillen teachings of a control program could be considered to one of ordinary skill in the art as a function block....." The examiner is creating function blocks to justify a rejection. That is not what is intended by 35 USC 103.

As to Galasso, it describes a flash memory which is secured by disabling write access to the device, thereby preventing unauthorized updating or tampering of the contents. In the secure memory storage is stored the microprocessor's firmware (i.e. software), see col. 1, lines 50 ff.) A cryptoengine is included in an integrated circuit (IC) with the flash memory. An attempt to write to the flash memory is successful only if a received encrypted certificate is authenticated by the cryptoengine. If not authenticated, the write enable signal line and the power applied to the flash memory are disabled. Again there is not

hint in the direction of the solution as it is described in our patent application. Galasso does not provide a hint in the direction of the present invention with the exception that some software is protected.

The newly cited Crater et al. Patent, refers to an integrated control system which comprises one or more controllers each equipped to perform a control function and to gather data relevant to the control function. Each controller contains computer storage means, such as computer memory, for storing the relevant data and instructions, associated with the data, for causing a remote computer to generate a visual display incorporating the data in a predetermined format; and a communication module for establishing contact and facilitating data interchange with the remote computer. The remote computer, in turn, also includes a communication module compatible with the controller-borne module, and which enables the remote computer to download the data and associated instructions from one or more controllers. The remote computer also includes a facility for processing the instructions to create a user interface encoded by the instructions, and which incorporates the data. In this way, controller data is coupled to instructions for displaying that data, and this totality of information is continuously accessible, on a freely selective basis, to the remote computer.

We see nothing that would prompt the person skilled in the art to take the teachings of the above noted references to reach the invention defined in claims 12 - 22 as these claims are presently defined.

In view of the foregoing, therefore, reconsideration and re-examination are respectfully requested and claims 12 - 22 found allowable.

Date: Sept. 8, 2009

Respectfully submitted,

BACON & THOMAS, PLLC

A handwritten signature in black ink, appearing to read 'Felix J. D'Ambrosio', written over the printed name.

Felix J. D'Ambrosio

Attorney for Applicant

Registration Number 25,721

Customer Number *23364*

BACON & THOMAS, PLLC

625 Slaters Lane, Fourth Floor

Alexandria, Virginia 22314

Telephone: (703) 683-0500

Facsimile: (703) 683-1080

S:\Product\fd\CLIENTS\Endress+Hauser Holding GmbH\DA\3002 - PS0014\Sept 8 2009 Response.wpd